

USFWS Comments Regarding EPA Proposed NPDES Permit Renewal for the City of Sandpoint WWTP

The following comments are based on our review of the October 23, 2014, biological evaluation for the project and subsequent supporting information provided by EPA.

Based on the available information to date, we agree that there are likely to be no effects from the proposed action on the following species: whitebark pine (*Pinus albicaulis*), grizzly bear (*Ursus arctos horribilis*), gray wolf (*Canis lupus*), Canada lynx (*Lynx Canadensis*), woodland caribou (*Rangifer tarandus caribou*), North American wolverine (*Gula gul luscus*), and the Kootenai River distinct population segment of the white sturgeon (*Acipenser transmontanus*). This conclusion is based primarily on the species' limited contact with, or dependence on, the aquatic environment or their non-occurrence within the broader project area. There is no provision for USFWS concurrence on "no effect" determinations by federal agencies under section 7 of the Endangered Species Act and, therefore, these determinations rest with EPA. We recommend that EPA's evaluation of potential affects on these species be documented in the project files.

Currently, given the available information, we can not concur that the project may affect, but is not likely to adversely affect, the bull trout (*Salvelinus confluentis*) or bull trout critical habitat. Assessing potential project effects on bull trout and its critical habitat will require a more comprehensive biological evaluation. The following is a list of concerns we have regarding the proposed action and, in order to move forward with the requested consultation, a revised biological evaluation for the project will need to address the following:

1. **State-wide Biological Opinion (BO):** The USFWS and EPA recently concluded a state-wide consultation on Idaho water quality standards for numeric water quality criteria for toxic pollutants. In our BO for that consultation (electronic copy provided), we developed reasonable and prudent alternatives (RPA) to address management actions for various constituents typically found in wastewater discharges, including a number that are applicable to the City of Sandpoint WWTP. The RPA described in the state-wide BO are expected to be incorporated into NPDES permits when they are issued or renewed and, therefore, should be adequately addressed in a revised biological evaluation for the project.
2. **Constituents Evaluated:** While the guidelines set forth by the Clean Water Act and state water quality standards are meant to be protective of aquatic resources (along with other beneficial uses), they are not necessarily protective of the specific life history needs of bull trout or of the elements that comprise bull trout critical habitat. Rather, biologically relevant limits, or monitoring results if established limits are unavailable, should be used to evaluate potential impacts. Based on these limits or monitoring results, each contaminant should be evaluated for possible impacts to bull trout, separately and in combination. For example, chromium and zinc enhance the uptake of cadmium when in a mixture, and mercury is more toxic when in the presence of lead and zinc. On the other hand, calcium may counteract the effects of zinc, copper, lead, and sodium.

A revised evaluation should address whether any net increase in contamination levels, even if

they remain below established water quality standards, could result in impacts to bull trout or degradation of its critical habitat. This evaluation should consider all contaminants found within the effluent, including any that do not have established water quality limits and any potential interactions among them.

3. **Other Potential Impacts:** In addition to potentially toxic constituents in effluent discharges, all possible project effects to listed species and their critical habitat should be considered, such as those that may result from other water quality considerations (e.g., TSS, BOD, or other bull trout stressors), disturbance, or bioaccumulation. Evaluation of these other potential impacts should consider various bull trout life history needs that are provided within the action area (e.g., alterations to prey base, migration and movement patterns, overall fitness).
4. **Action Area:** By regulation, the action area is defined as all areas that may be affected directly or indirectly by a federal action, and not merely the immediate area involved in the action (50 CFR 402.02). In delineating the action area for a proposed project, the farthest reaching potential physical, chemical, and/or biotic effects of the action on the environment should be evaluated. The action area should be inclusive of any possible effects to bull trout and its critical habitat and should include any ancillary sites or activities necessary for the project (e.g., on-shore facilities, monitoring actions).

The current biological evaluation describes the action area as the acute and chronic “near-field” areas around the point of discharge, including mixing zones, and the “far-field” areas that may be influenced by the discharge. A revised evaluation should include projected concentrations for all contaminants within the action area, including both the acute and chronic mixing zones, and the entire downstream drift anywhere the discharge plume or contaminant concentrations could potentially be harmful to bull trout or adversely modify its critical habitat. These areas need to be sufficiently defined and mapped in relation to the lake and river.

5. **Project Description:** Based on recent communications, it appears that EPA is still considering relevant project design features (e.g., effluent limits and discharge flows) that may be included in a revised permit. A revised biological evaluation for the project will need to address all aspects of an updated proposed action that may have bearing on our assessment of potential impacts to bull trout and its critical habitat within the action area.